

REMARKS

The Office Action mailed August 24, 2004, has been received and reviewed. Claims 1 through 5 are currently pending in the application. Claims 1 through 5 stand rejected. Applicants have amended claim 5, and respectfully request reconsideration of the application as amended herein.

Double Patenting Rejection based on U.S. Patent No. 6,494,191 to Bingham et al.

Claims 1 and 5 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,494,191.

Claims 2 through 4 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,494,191 as stated above and further in view of U.S. Patent No. 4,483,303 to Ishikawa et al.

In order to avoid further expenses and time delay, Applicants elect to expedite the prosecution of the present application by filing Terminal Disclaimers to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicants' filing of the Terminal Disclaimers should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections. Attached is the Terminal Disclaimer and accompanying fee.

Applicants, therefore, respectfully request reconsideration and allowance of claims 1 through 5.

Double Patenting Rejection based on U.S. Patent No. 6,619,273 to Bingham et al.

Claims 1 and 5 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,619,273.

Claims 2 through 4 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,619,273 as stated above and further in view of U.S. Patent No. 4,483,303 to Ishikawa et al.

Applicants submit that the rejection of claims 1 and 5 based on obviousness-type double patenting in view of U.S. Patent No. 6,619,273 to Bingham et al. is improper since the present

application is a divisional application of United States Application Serial No. 10/190,409, filed July 5, 2002, now United States Patent No. 6,619,273 to Bingham et al. More specifically, claims 1 through 5 of the present application correspond to nonelected claims 86 through 90 of Application Serial No. 10/190,409.

Applicants note the following statutory standards associated with divisional applications:

It two or more independent and distinct inventions are claimed in on application, the Director may require the application to restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title it shall be entitled to the benefit of the filing date of the original application. **A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.** 35 U.S.C. § 121 (emphasis added).

As such, Applicants submit that U.S. Patent No. 6,619,273 may not be used as a reference against the present application and, therefore, that the obviousness-type double patenting rejection based thereon is improper.

Applicants further submit that the rejection based on claim 1 of U.S. Patent No. 6,619,273 as stated above and further in view of U.S. Patent No. 4,483,303 to Ishikawa et al. is similarly improper due to the unavailability of U.S. Patent No. 6,619,273 for use as a reference in the present application.

Applicants, therefore, respectfully request reconsideration and allowance of claims 1 through 5.

ENTRY OF NEW CLAIMS

New claims 6 through 18 should be entered by the Examiner because the claims are supported by the as-filed specification and drawings and do not add any new matter to the application. Applicants submit that claims 6 through 18 are in condition for allowance and respectfully request the same.

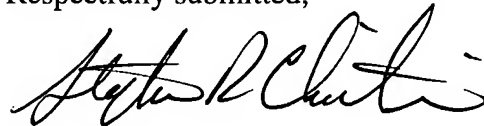
ENTRY OF AMENDMENTS

The amendments to claim 5 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application.

CONCLUSION

Claims 1 through 18 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,



Stephen R. Christian
Registration No. 32,687
Attorney for Applicants
P.O. Box 1625
Idaho Falls, ID 83415-3899
Phone: (208) 526-9140
Fax: (208) 526-8339

Date: 8 NOV 2004
SRC/dlm